

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.12374 OF 2018

ORDER:

In this writ petition, under Article 226 of the Constitution of India, filed by the petitioners, their grievance is in respect of interference of respondent Nos.4 and 5/Sub-Inspector of Police and Tahsildar with their rights over the land in an extent of Ac.5.75 cents in Sy.No.213 and Ac.24.00 cents in Sy.No.214 of Vempalli Village and Mandal, YSR District at the instance of respondent Nos.6 and 7.

2. I have heard the submissions of Sri V.R.Reddy Kovvuri, learned counsel for the petitioners, of learned Government Pleader for Home (A.P.), appearing for respondent Nos.1 to 4, and of learned Government Pleader for Revenue (A.P.), appearing for respondent No.5.

3. The facts, as stated by the learned counsel for the petitioners and as discernible from the record, in brief, are as follows:

Respondent No.6 filed O.S.No.28 of 1997 against the father of the petitioners herein and another on the file of Junior Civil Judge's Court, Pulivendula for declaration of title and recovery of possession of Ac.1.60 cents out of Ac.11.50 cents in Sy.No.213 of Vempalli Village and Mandal, YSR District, and for recovery of possession of the same from the defendants in the said suit. The said suit was decreed, on 16.02.2001. The appeal in A.S.No.19 of 2003, filed by the aggrieved, on the file of the I Additional District Court was dismissed for non-prosecution, on 12.04.2005. Later

on, the Execution Petition in E.P.No.60 of 2011, which is said to have been filed by respondent No.6, was dismissed for default, on 06.12.2013.

4. In that view of the matter, the petitioners submit that the decree for recovery of possession having been time barred cannot be executed against the petitioners, who are the legal representatives of judgment debtor No.1, and their possession cannot be disturbed; that respondent No.6, having come to know that his decree has become time barred, filed a false criminal case through respondent No.7 and is trying to obtain delivery of possession of the property, which is subject matter of the aforestated decree, by circumventing the civil procedure; and, that respondent Nos.4 and 5/Sub-Inspector of Police and Tahsildar are aiding them in that direction.

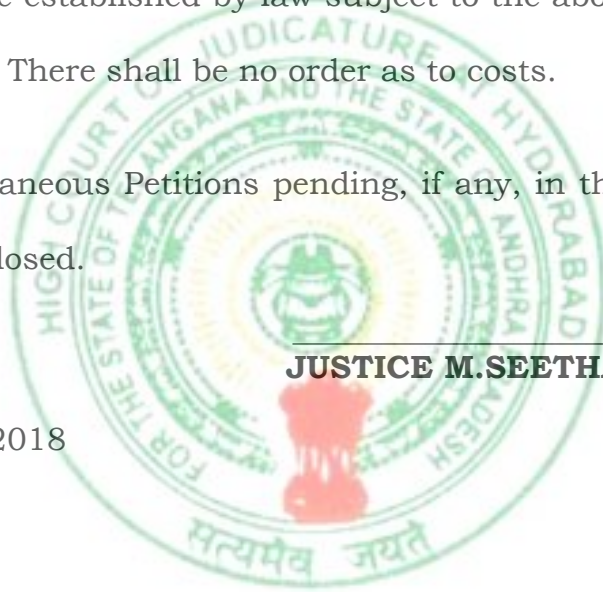
5. Learned Government Pleader for Home (A.P.), on oral instructions, would submit that on a report, dated 06.12.2017, lodged by respondent No.7, a case in Crime No.302 of 2017 was registered on 06.12.2017 by the Station House Officer, Vempalli Police Station, Kadapa for the offences punishable under Sections 427 and 447 read with 34 I.P.C.; that investigation is taken up; that in the course of investigation, some correspondence was entered into with the revenue officers; that the police are only investigating into the crime; that no interference with the possession of the petitioners over the land covered by the decree in the civil suit is being caused; and, that the writ petition is filed to prevent the police officers from conducting proper investigation into the aforestated crime.

6. Having regard to the facts and the submissions, the Writ Petition is disposed of directing respondent Nos.4 and 5/ Sub-Inspector of Police and Tahsildar, not to interfere with the possession of the petitioners over the decree schedule property in the aforestated suit while investigating into the aforestated crime and further directing them not to aid the decree holder/respondent No.6 in the civil dispute, which is covered by the aforestated original suit. It is also made clear that the investigation into the aforestated crime shall be conducted strictly in accordance with the procedure established by law subject to the above observations in this order. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 17.04.2018
AMD



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